



BRIEFING: AUGUST 4TH EXECUTIVE/ADMINISTRATIVE COMMITTEE MEETING AGENDA ITEM #6

TO: Chairman Pringle and Authority Board Members

FROM: Dan Leavitt, Deputy Director

DATE: 7/30/2010

RE: Diridon Station Memorandum of Understanding

Discussion:

The City of San Jose, the Peninsula Corridor Joint Powers Board (PCJPB), and Santa Clara Valley Transportation Authority (VTA) are interested in working cooperatively with the Authority to serve mutual objectives regarding the development of a multi-modal station at Diridon Station in San Jose.

As outlined in the Draft MOU, the City of San Jose, PCJPB and VTA would coordinate efforts and resources, avoid duplication of work, and cooperate on a framework for the design and development of the expansion of Diridon Station. The parties agree to share information and to coordinate their efforts insofar as environmental reviews are concerned.

Authority staff worked with City of San Jose, PCJPB and VTA staff to develop the attached Draft Memorandum of Understanding (MOU) to work cooperatively throughout the preparation of project-level HST EIR/EIS documents and the development of the San Jose multi-modal station.

There is agreement between the Authority staff and City of San Jose, PCJPB and VTA staff in regards to the main points described in the draft MOU. The Authority's legal counsel has reviewed the draft.

Recommendation:

Authority staff request authorization for the Chief Executive Officer to enter into an MOU with the City of San Jose, PCJPB and VTA regarding the development of the San Jose multi-modal station, as generally described above and in the draft MOU.

Attachments:

- ✓ Draft MOU
- ✓ Resolution HSRA11-10

**MEMORANDUM OF UNDERSTANDING
BY AND AMONG
THE CITY OF SAN JOSE,
THE CALIFORNIA HIGH SPEED RAIL AUTHORITY,
THE PENINSULA CORRIDOR JOINT POWERS BOARD,
AND
THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
RELATING TO THE DESIGN AND DEVELOPMENT OF THE
DIRIDON MULTI-MODAL RAIL STATION**

This Memorandum of Understanding (“Agreement”) is made and entered into this ____ day of ____ 2010 (“Effective Date”), by and among the City of San José (“City”), a municipal corporation of the State of California; the California High-Speed Rail Authority (“CHSRA”), a state entity; the Peninsula Corridor Joint Powers Board (“Caltrain”), a public agency; and the Santa Clara Valley Transportation Authority (“VTA”), a public agency organized as a special district under California law (collectively, the “parties”).

RECITALS

- A. **WHEREAS**, Diridon Station is a multi-modal regional transportation hub serving the City of San José, County of Santa Clara, and the greater Santa Clara Valley region. Diridon Station is located in the City of San José and is listed on the National Register of Historic Places for its architectural and historical significance.
- B. **WHEREAS**, Diridon Station is the destination point for many trains, light rail, and local and regional bus services from Caltrain, Amtrak, Capital Corridor, Altamont Commuter Express (ACE), and VTA. Additionally, Diridon Station is planned as a future station on the extension of the Bay Area Rapid Transit (BART) to San José, and is a possible station on the California High Speed Rail (HSR) system connecting northern and southern California.
- C. **WHEREAS**, City is the largest municipality in northern California and has a significant interest in the expansion of Diridon Station as a world class regional transportation facility serving its residents, businesses, and the community-at-large.
- D. **WHEREAS**, City has created the Diridon Station Joint Policy Advisory Committee (Diridon JPAC) consisting of representatives of City, Caltrain, VTA, BART, Metropolitan Transportation Commission (MTC) and CHSRA, with Ex Officio Representation from the California State Assembly, charged with receiving, reviewing, and exploring recommendations on (1) the goals, financing, governance and operation of the Diridon Station, (2) leveraging existing relationships to promote the interests of the Diridon Station Planning Area and (3) engaging state, federal, regional and local entities that can promote the goals of the Diridon Station Planning area through monetary and other forms of assistance.
- E. **WHEREAS**, Caltrain currently owns and operates Diridon Station and provides commuter rail service between San Francisco and San José, and between San José and

Gilroy. Caltrain is a Joint Powers Authority that is funded by the San Francisco Metropolitan Transportation Authority (SFMTA), the San Mateo Transportation Authority (Samtrans), and VTA. Caltrain has a significant interest in the expansion of Diridon Station as a regional transportation facility to continue to be a major connection point for its commuter rail service and expansion of its current services, while recognizing its contractual obligations to Union Pacific Railroad (UPRR).

- F. **WHEREAS**, VTA is a special purpose district responsible for public transit services, congestion management, specific highway improvement projects, and countywide transportation planning for [Santa Clara County](#). VTA has a significant interest in the expansion of Diridon Station as regional transportation facility to provide public transit services to its customers and as a planned future station for the BART extension to San José and a possible station on the California High Speed Rail system.
- G. **WHEREAS**, CHSRA, which has the exclusive “authorization and responsibility for planning, construction, and operation of high-speed passenger train service,” is currently developing a high speed rail project connecting northern and southern California. The planned system will serve major cities in California, and Diridon Station is a possible station for the high speed rail system. Consequently, CHSRA has a significant interest in any plans concerning the expansion of Diridon Station.
- H. **WHEREAS**, the parties believe it is in the public interest to cooperate in the design, construction, and operation of the expanded Diridon Station to reduce cost, reduce the impacts on nearby commercial facilities and residential neighborhoods, and ensure the expanded Diridon Station will be mutually beneficial to the parties.
- I. **WHEREAS**, the parties desire to enter into to this AGREEMENT to cooperate on the design and development activities for the possible expansion of Diridon Station, to exchange data and information, and avoid unnecessary duplication of work and resources.

The parties hereby agree as follows:

SECTION 1. PURPOSE.

Diridon Station is located in the City of San José along the Union Pacific/Caltrain/Amtrak/Altamont Commuter Express (ACE) right-of-way and is owned and operated by Caltrain Diridon Station, already a major transit hub, will emerge as one of the premier multimodal stations in the Bay Area as a station of the proposed BART Extension to San José and as a possible station for the proposed HSR system. The parties all have a significant interest as discussed herein in the expansion of Diridon Station and the purpose of this Agreement is to coordinate efforts and resources, avoid duplication of work, and to cooperate on a framework for the design and development of the expansion.

SECTION 2. TERM.

The term of this Agreement shall be from the Effective Date and shall extend through June 30, 2016, inclusive, subject to the provisions of Section 5 of this Agreement.

SECTION 3. COOPERATION.

- A. The parties agree that the Diridon JPAC, consisting of representatives of all directly interested public entities, will serve as the venue for communication and coordination of areas of mutual interest between the parties concerning the Diridon Station. The Diridon JPAC is not, however, authorized to take any action, formal or informal, on behalf any of the constituent parties.
- B. City received Seven Hundred and Fifty Thousand Dollars (\$750,000) in grant funding from the Metropolitan Transportation Commission (MTC) to prepare the “Diridon Station Area Plan,” which is a plan for the Diridon Station area, with the objective of providing a vision and framework, including a specific plan and environmental clearance, for higher intensity transit-oriented development in the area. The parties have met and will continue to meet as necessary to discuss the Diridon Station Area Plan. Additionally, the parties have met to discuss the specific elements of the plan that relates to the possible expansion of Diridon Station and will continue to meet as necessary to finalize the plan. City anticipates completing the Diridon Station Area Plan by June 30, 2011.
- C. CHSRA is currently preparing a plan and design for the HSR system, conducting environmental studies, obtaining necessary permits, and undertaking the possible development of a high-speed train passenger network in California. The parties have met to discuss the plan and design for the HSR system as it may relate to Diridon Station and will continue to meet as necessary to discuss the elements of the project that may impact Diridon Station.
- D. Each party has hired or may hire its own consultant(s) to address the design and operation plans for the expanded Diridon Station. The parties will coordinate their efforts in order to avoid unnecessary duplication of work.
- E. The parties each retains its respective sole and absolute discretion to review and certify as adequate any EIR that may be prepared for the expansion of Diridon Station and to approve or disapprove any proposed project. Nothing contained in this Agreement shall be construed to diminish, modify, or otherwise affect the parties’ legal authority or to limit the parties’ sole and absolute discretion in any way. Nothing in this Agreement shall be construed to require any particular decision-making action related to review and certification of the EIR or proposed project either before or after completion of the environmental review process under CEQA.
- F. Each party will notify the other parties if it intends to perform any studies, designs, or work that otherwise relates to Diridon Station. Additionally, the parties will meet to discuss the number and types of consultant(s) that will perform the work and the interests of the affected stakeholders in any future design, construction or operation of Diridon Station. Each party should have an opportunity to continue to meet and discuss, as needed, to provide their ideas, concerns, or to discuss in further detail of any work perform by the other parties.

- G. The parties agree to share information, including technical studies and reports, with each of the other parties, and to provide the other parties with an opportunity to review and to comment on such studies and reports, in order to facilitate better planning and coordination. The parties agree to coordinate their efforts insofar as environmental reviews are concerned, so that those reviews are conducted efficiently and in a manner which to the extent feasible avoids duplication, while satisfying legal requirements and serving the public interest.
- H. Each party agrees, to the extent it is within and consistent with that party's jurisdiction and authority, to work collaboratively in the achievement of the goals and objectives of each of the other parties with regard to transportation-related development and activities at Diridon Station. Each party agrees that its own planning and design work should take into account the planning and design work being done by each of the other parties.
- I. The parties agree that the most desirable design for the Diridon Station is one which would result in making intermodal transfer between modes (VTA bus and light rail, BART, Caltrain, HST, and other services) as convenient and timely as possible. The parties agree to explore the possibility of integrating station operations among the parties relating to maintenance, ticketing, information, safety, and security.
- J. The parties also agree to consider the parking needs generated by their own planned services in a manner which takes into account the needs of the other parties in the aggregate and results in efficient use and location of parking facilities.

SECTION 4. COMMITMENTS BY THE PARTIES.

- A. It is in the interest of the parties that the design, construction, and operation of Diridon Station be accomplished in a manner that will accommodate operational transit and passenger requirements while minimizing impacts on the surrounding community. The parties may craft and adopt a roster of "Shared Objectives", including agreed upon design, and operational enhancements pursuant to the terms of this Agreement to meet the objectives of the parties and the community.
- B. The parties agree that the development of an expanded Diridon Station should occur in a manner that takes into account (i) the future expansion or modifications of the Caltrain system; (ii) development of BART to San José; and (iii) possible development of the California High Speed Rail System in and through San José; (iv) the Diridon Area Station Plan; and (v) surrounding commercial and residential developments.
- C. The parties agree to work together to identify and secure funding for the expansion of Diridon Station, address projected costs necessary to achieve the design measures necessitated by an expanded transit facility, and cooperate in identifying funding for the operation and maintenance of an expanded Diridon Station.

SECTION 5. GENERAL PROVISIONS.

- A. Under no circumstances shall the parties have authority or power to pledge the credit of the other party to this Agreement or incur obligation(s) in the name of the other party, nor shall any party be responsible for any other party's debt or obligations. No agency relationship

is created by this agreement. No work, authority, or jurisdiction is delegated to anyone or to any party pursuant to this agreement.

- B. This Agreement shall not be construed or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any claim or right of action hereunder for any causes whatsoever.
- C. Notices required under this Agreement may be delivered by first class mail addressed to the appropriate party at the following addresses:

TO Diridon JPAC:

Diridon Station Joint Policy Advisory Committee
Office of the Board Secretary
Santa Clara Valley Transportation Authority
3331 North First Street, Building B
San Jose, CA 95134

TO Caltrain:

Peninsula Corridor Joint Powers Board
1250 San Carlos Avenue
San Carlos, CA 94070
Attn: Mr. Robert Doty, Executive Director

TO CITY:

City of San José
Department of Transportation
200 E. Santa Clara Street
San José, CA 95113
Attn: Mr. Ben Tripousis, Transportation Policy Manager

TO VTA:

Santa Clara Valley Transportation Authority
Office of the Board Secretary
3331 North First Street
San Jose, CA

TO CHSRA:

California High Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814
Attn: Mr. Dan Leavitt

- D. The parties' waiver of any term, condition or covenant, or breach of any term, condition or covenant shall not be construed as a waiver of any other term, condition or covenant or breach of any other term, condition or covenant.
- E. This Agreement, including all exhibits, constitutes the entire Agreement between the parties pertaining to the subject matter contained herein and supersedes all prior or contemporaneous agreements, representations and understandings of the PARTIES relative

thereto. The parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms on the subject matters covered hereunder and that no extrinsic evidence whatsoever (including prior drafts hereof and changes thereto) may be introduced in any judicial, administrative or other legal proceeding involving this Agreement.

- F. No alterations or changes to the terms of this Agreement shall be valid unless made in writing, approved by applicable agency boards and the City Council, and signed by all parties hereto.
- G. In case where any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal, or unenforceable in any respect, it shall not affect the validity of the other provisions which shall remain in full force and effect.
- H. Pursuant to Government Code Section 895.4 the parties shall fully indemnify and hold (including its governing bodies, officers, employees, assigns and agents) harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by any of the parties under or in connection with any work, authority or jurisdiction allegedly delegated to the parties under this Agreement. No officer or employee thereof, is responsible for any damage or liability occurring by reason of anything done or omitted to be done by the parties under or in connection with any work, authority or jurisdiction delegated to the parties under this Agreement. Each party is responsible for its own conduct and actions. Although this Agreement does not create any agency relationship as between the parties, does not in any way constitute an authorization by any party to any other party that work be done, and does not constitute a delegation by any party to any other party of any authority or jurisdiction, in the event suit is brought against one party (the "first party") based on the alleged acts or omissions of another party (the "second party"), the second party shall indemnify and hold harmless the first party from any liability for such alleged acts or omissions.
- I. The captions of the various sections, paragraphs, and subparagraphs of this Agreement are for convenience only and shall not be considered nor referred to for resolving questions of interpretation.
- J. The parties shall comply with all applicable laws, statutes, ordinances, rules, regulations or requirements of the federal, state and local governments, and any agencies thereof, which relate to or in any manner affect the performance of this Agreement,
- K. Each party to this Agreement represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this Agreement on behalf of the entity that is a Party to this Agreement.
- L. The parties may terminate the Agreement upon mutual written consent. Additionally, any party may terminate this Agreement with ten (10) day notice to the other parties. City's City Manager is authorized to terminate this Agreement on behalf of the City. VTA's General Manager is authorized to terminate this Agreement on behalf of the VTA. CHSRA's Executive Director is authorized to terminate this Agreement on behalf of

CHSRA. Caltrain's Executive Director is authorized to terminate this Agreement on behalf of Caltrain.

"CITY"

CITY OF SAN JOSE, a municipal corporation

By _____
Name:
Title:

APPROVED AS TO FORM:

By _____
Deputy City Attorney

"VTA"

SANTA CLARA VALLEY
TRANSPORTATION AUTHORITY, a public
agency

By _____
Name:
Title:

APPROVED AS TO FORM:

By _____
Attorney

"CHSRA"

CALIFORNIA HIGH SPEED RAIL
AUTHORITY, a State entity

By _____
Name:
Title:

APPROVED AS TO FORM:

By _____
Attorney

"CALTRAIN"

PENINSULA CORRIDOR JOINT POWERS
BOARD, a Joint Powers Authority

By _____
Name:
Title:

APPROVED AS TO FORM:

By _____
Attorney



CALIFORNIA HIGH-SPEED RAIL AUTHORITY

**Resolution #HSRA11-010
Regarding a Memorandum of Understanding with
The City of San Jose, Peninsula Joint Powers Board,
and
Santa Clara Valley Transportation Authority**

Whereas, it is desirable for the California High-Speed Rail Authority to enter into a memorandum of understanding with the City of San Jose, Peninsula Joint Powers Board, and Santa Clara Valley Transportation Authority,

Now, therefore, be it resolved,

Resolved, that the Executive Director/Chief Executive Officer is directed to execute a memorandum of understanding with the City of San Jose, Peninsula Joint Powers Board, and Santa Clara Valley Transportation Authority in substantially the form as shown on the draft memorandum attached to this resolution, and

Resolved further that the Executive Director/Chief Executive Officer is authorized to make such revisions to the draft memorandum prior to signing it as he or she sees fit that are embraced by and in harmony with the provisions contained in the attached draft.

Vote:

Date:

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